

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
BOARD OF OIL AND GAS CONSERVATION



GREG GIANFORTE, GOVERNOR

OIL AND GAS CONSERVATION DIVISION

STATE OF MONTANA

March 23, 2023

Orphaned Wells Program Office
Department of the Interior
1849 C Street, N.W.
Washington DC 20240

RE: State Formula Grant Draft Guidance

To Whom It May Concern:

The Montana Board of Oil and Gas Conservation (MBOGC) administers the Montana oil and gas conservation laws; promotes conservation and prevents waste in the recovery of resources; and regulates oil and gas exploration and production in Montana. The MBOGC also has responsibility for identification, plugging, and site restoration of idle and orphaned wells.

MBOGC received the \$25 million award from the BIL initial grant and with those funds contracted to plug and abandon 237 orphan wells in the state. That number accounted for all known orphaned wells at the time the award was received.

MBOGC previously submitted its notice of intent to apply for the formula grant at the end of 2021. After reviewing the formula grant draft guidance, we respectfully submit our comments below. Furthermore, MBOGC supports the submitted comments from the Interstate Oil and Gas Compact Commission and comments presented by its members on February 15, 2023, via zoom meeting.

III. A. ii. identify and characterize undocumented orphaned wells on State and private land;

Characterize need to be outlined and defined.

III. A. iv. make information regarding the use of funds received available on a public website;

MBOGC has limited control over IT services as they are a centralized division within the Montana Department of Natural Resources (DNRC). Creating a website under this section would be burdensome on DNRC IT staff that are also required to provide services to all other DNRC divisions. Having a single public website established by the DOI with data provided by the State's required reports to the DOI would also allow a single place for members for the public to track how the funds are used rather than having to try to find data each different states websites, which all might present data differently.

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III. A. v. measure and track

- I. emissions of methane and other gases associated with orphaned wells; and**
- II. contamination of groundwater or surface water associated with orphaned wells;**

MBOGC has a relatively small number of orphaned wells compared to other states and a relatively small amount of funds available from the formula grant. Costs to test emissions and monitor for groundwater contamination could significantly use up the funds available to plug these orphaned wells. We see a greater benefit to reducing methane emissions and potential future groundwater contamination by plugging as many orphaned wells as possible rather than just spending funds on testing and having to remove wells from plugging contracts.

III. A. vii. remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure.

Montana and split estate minerals laws do not give the MBOGC the right to dictate what happens on private property surface. If a surface owner wants the location and signs an agreement to release the State of a liability, they may do so. Only the surface owner can dictate infrastructure on the private surface. If given the ok by surface owner, the State will then move towards removing infrastructure outside of jurisdiction per the grant recommendations.

III. A. viii. identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and indigenous communities;

MBOGC may only attribute that to wells it has jurisdiction over on the reservations and communities within the state. The Federal Orphaned Well Program and Tribal Orphaned Well Grants should cover most of these properties within the state of Montana. MBOGC finds that it would be up to DOI to reach out to those communities to take part in either of those programs and not put the burden on the states.

III. D. Deadline for Expenditure: At state that receives funds under the formula grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is five years after the date of receipt of funds. In other words, all funds must be obligated withing five years of the effective date of award, otherwise unobligated funds shall be reimbursed to the Secretary.

Can be said much simpler:

If awarded funds are not obligated and committed withing 5 years of receipt, unobligated funds will be returned to the Secretary.

V. A. Pre- and Post- Plugging Measurement of Air and Water Pollution

Establishing a rate for methane emissions seems like a waste of funds. If methane is detected prior to plugging and not detected after plugging, then the goal of eliminating methane emissions from the well has been accomplished. A rate should only be needed to rank wells if a state is unable to plug all its orphan wells. If the plan is to plug all orphaned wells with the funds, they should not be required to measure a rate which could be costly and unnecessary.

There are DOI methane emissions guidelines, but if groundwater monitoring is required, what are the guidelines for doing so that the DOI will determine to be adequate?

VIII. E. Data Collection and Reporting

There needs to be clarification of whose employee the requirement to provide Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site is referring to. It is unreasonable and burdensome to track all employees working on a plugging project for every contractor and sub-contractor. Our field personnel are on location to ensure wells are being properly plugged and tracking every employee that works on a project and hours worked is beyond their job requirements and/or abilities.

Also, requiring the population living within half mile radius of each well can be unreasonable and burdensome and should not be required.

Attachment A Certification

There needs to be clarification of the requirement for financial assurance instruments available to cover cost of plugging wells will be used by the state. In Montana, plugging and reclamation bonds are combined with funds from interest on an account that was established by a tax on mineral development into one account that is used to plug wells or respond to emergency issues. It would be difficult to separate out the two different types of funds.

Attachement B State Formula Grant Phase 1 Eligibility

There needs clarification on if no wells are available to contract during phase 1 of the formula grant because they are all under contract to plug with the initial grant, will Montana lose out on the phase 1 eligibility amount, or will that get carried over to future phases?

Respectfully,



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